



U.S. Department of Justice

*United States Attorney
Southern District of New York*

*The Silvio J. Mollo Building
One Saint Andrew's Plaza
New York, New York 10007*

March 6, 2015

BY ECF AND ELECTRONIC MAIL

The Honorable Valerie E. Caproni
United States District Judge
40 Foley Square
New York, New York 10007

**Re: United States v. John Johnson,
13 Cr. 190 (VEC)**

Dear Judge Caproni:

On February 6, 2015, the Court ordered the Government to supply its position as to whether the March 18, 2013 allocation by defendant John Johnson is sufficient to support his guilty plea to insider trading offenses after the Second Circuit's recent decision in United States v. Newman, 773 F.3d 438 (2d Cir. 2014).

The Government has concluded that the allocation, as it stands, is insufficient to support the guilty plea. However, in light of all of the evidence in this matter – including, among other things, the defendant's trial testimony in United States v. Riley, 13 Cr. 339 (VEC), that he purposefully avoided learning details about Matthew Teeple's source of information at Foundry Networks to create a "plausible level of deniability" in his trading activities – the Government is prepared to proceed in its prosecution of the defendant as the evidence clearly establishes that he consciously avoided knowledge of the tipper's benefit. Accordingly, the Government respectfully submits that the Court should schedule a pretrial conference to determine whether the defendant wishes to supplement his allocation and re-plead or proceed to trial.

Respectfully submitted,

PREET BHARARA
United States Attorney

By: _____/s/_____
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cc: Joshua D. Franklin, Esq.